

P-999/CI-88-917 ORDER GRANTING AND DENYING REQUESTS FOR WAIVERS,
ACCEPTING COMPLIANCE FILINGS, AND REQUIRING FONE AMERICA TO SHOW
CAUSE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner

In the Matter of the
Applications to Provide
Alternative Operator Services in
Minnesota

ISSUE DATE: November 24, 1992

DOCKET NO. P-999/CI-88-917

ORDER GRANTING AND DENYING
REQUESTS FOR WAIVERS, ACCEPTING
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PROCEDURAL HISTORY

On November 19, 1991, the Commission issued its ORDER SETTING REGULATORY REQUIREMENTS FOR OPERATOR SERVICES FROM TRANSIENT LOCATIONS in this docket. In that Order the Commission established certain requirements for providers of alternative operator services (AOS). Among other things, the Commission required AOS providers to submit compliance filings within 30 days of the Order, to comply with the Order's sub-carrier identification requirement, and to provide billing to end-users within 90 days of the date services are provided.

On March 25, 1992, the Commission issued its ORDER AFTER RECONSIDERATION. In that Order the Commission reversed its finding regarding the competitive nature of AOS under Minn. Stat. § 237.59, but affirmed most other aspects of the November 19 Order. The 30 day deadline for submitting compliance filings was extended in this Order.

A number of AOS providers submitted compliance filings pursuant to the Commission's November 19 requirement, along with requests for waiver of the sub-carrier identification requirement. Two billing/collection clearinghouses also submitted requests for waivers of the sub-carrier identification requirement on behalf of their AOS provider clients. One AOS provider, OPTICOM, also requested a waiver of the 90 day billing requirement from the Commission's November 19, 1991 Order.

On August 6, 1992, the Department of Public Service (the Department) filed its report and recommendation regarding the AOS filings. The report was supplemented on November 9, 1992.

The matter came before the Commission for consideration on November 10, 1992.

FINDINGS AND CONCLUSIONS

The compliance filings submitted in response to the Commission's requirements raised several issues: Should a waiver of the sub-carrier identification requirement be granted? Are the compliance filings otherwise acceptable? Should Opticom's request for a waiver of the 90 day billing requirement be granted? How should providers who have not submitted compliance filings be treated?

The Commission will address these issues in turn.

I. Requests for Waivers of the Sub-Carrier Identification Requirement

The sub-carrier identification requirement is stated at Order Paragraph No. 3 of the Commission's November 19 Order:

Within 120 days of the date of this Order, AOS providers must begin stating their identities on the bills sent to end-users. AOS providers not able to meet this requirement must apply for a waiver from the Commission.

In the November 19 Order, the Commission found that requiring sub-carrier identification was in the public interest because the requirement

is an important protection for end-users who may be overcharged for AOS services or otherwise provided unsatisfactory service. Only when the name of the actual provider is available can customers readily verify bills, compare rates, or register complaints.

Order at p. 9.

In the November 19 Order the Commission noted that sub-carrier identification was not yet universally available. Local exchange companies (LECs) and independent local exchange companies (ILECs) often provide the billing and collection services for AOS providers, either directly or through billing/collection clearinghouses. Not all LECs and ILECs have the technological capability of providing the end-user with the name of the company for whom the call is being billed.

For these reasons, in its November 19 Order the Commission combined a requirement of sub-carrier identification with the possibility of a waiver for those companies that did not have the capability of complying.

The following AOS providers filed requests for waivers of the sub-carrier identification requirement along with their AOS compliance filings:

- International Telecharge, Inc.
- US Link Long Distance Company
- Value Added Communications
- Ascom Autelca Communications

Two billing/collection clearinghouses, Zero Plus Dialing, Inc. and Operator Assisted Network, Inc., filed requests for a sub-carrier identification waiver on behalf of the following AOS providers:

- One Call Communications, d/b/a OPTICOM
- Teleconnect Long Distance Company
- Strategic Alliances, Inc.
- US Osiris Corporation
- Cable and Wireless Communications, Inc.
- American Telecommunications Corporation
- US Long Distance, Inc.
- MCI Communications, Inc.
- US Sprint, Inc.
- Comtel Computer Corporation
- Alternate Communications Technology, Inc.

The Department recommended approval of the requests for waiver. The Department noted that some LECs and ILECs are in the process of modifying their billing systems to accommodate sub-carrier identification for AOS providers. The Department therefore recommended that the AOS providers be granted waivers for the period of one year, to allow for LEC and ILEC system modifications.

The Commission agrees with the Department that one year waivers should be granted. One year should allow many LECs and ILECs sufficient time to convert their billing systems. The Commission strongly encourages all parties involved to facilitate these billing system conversions within the one year allowed. If the conversions are not complete within the one year waiver period, the AOS providers may request a renewed waiver. At that time, the Commission will decide whether to grant or deny any requests for extension of the waiver beyond one year.

The Commission will grant the sub-carrier identification waivers filed by the above-listed AOS providers for the period of one year. At least 30 days before the expiration of the one year period, each company must submit a compliance filing notifying

the Commission of its plan to implement sub-carrier identification. Providers unable to comply with this requirement must file a request for another waiver of the identification requirement. The Commission will decide at that time if any request for a renewed waiver will be granted.

II. Adequacy of the Compliance Filings

The compliance filings required in the Commission's November 19, 1991 and March 25, 1992 AOS Orders included the following information: sample contract forms that meet all the requirements adopted by the Commission; samples of notices (tent cards, etc.) that comply with the notice requirements adopted by the Commission; and samples of bills that meet billing requirements adopted by the Commission.

The Department stated that the following AOS providers currently operating under interim authority fully complied with the requirements set out in the Commission's AOS Orders, except for the sub-carrier identification requirement:

- International Telecharge, Inc.
- US Link Long Distance Company
- Value Added Communications
- Ascom Autelca Communications
- One Call Communications, d/b/a OPTICOM
- Teleconnect Long Distance Company
- Strategic Alliances, Inc.
- US Osiris Corporation
- Cable and Wireless Communications, Inc.
- American Telecommunications Corporation
- US Long Distance, Inc.
- MCI Communications, Inc.
- US Sprint, Inc.
- Alternate Communications Technology, Inc.
- ComTel Computer Corporation

The Commission will require all the above-listed AOS providers to continue to operate under their interim authority during the one year waiver period discussed previously. Because the Commission will be granting a one year waiver of the sub-carrier identification requirement, it would not be appropriate to grant permanent authority to these companies at this time. At the end of the one year waiver period, those AOS providers who submit compliance filings showing their ability to implement sub-carrier identification will have their interim AOS authority converted to permanent authority.

III. OPTICOM's Request for a Waiver of the 90-Day Billing Requirement

In the November 19, 1991 AOS Order, the Commission required that all AOS charges must be billed to the end-user within 90 days of the date the service was provided. The Commission reasoned that limitations on billing periods were in the public interest because delays in billing could confuse customers who receive bills long after the service is rendered. Late billings could also make bill verification and effective complaints very difficult. The Commission noted, however, that some lag between the rendering of AOS service and the end-user's receipt of the bill is often unavoidable. The Commission therefore set 90 days as the outer limit for the billing of AOS services.

In its compliance filing, OPTICOM requested a waiver of the 90 day time limit for AOS billing. OPTICOM stated that its billing is done on contract by third party LECs, who may take up to 180 days to complete a billing cycle. The Department recommended that the Commission deny OPTICOM's request because the reasons given were insufficient.

The Commission agrees with the Department that OPTICOM's reasons for late billing are insufficient. The Commission notes that most of the other AOS providers also bill through LECs, and no other provider has requested a waiver of the billing time limit. The Commission also notes that this request for a revision of a requirement in the Commission's November 19, 1991 Order is really tantamount to a request for reconsideration. Such a request would be untimely under Minn. Rules, Part 7830.4100.

The Commission finds that OPTICOM's request for a waiver of the 90 day billing requirement should be denied.

IV. A Provider Which Has Not Submitted Compliance Filings

Fone America, which was granted interim AOS authority in the Commission's November 19, 1991 Order, failed to submit compliance filings. The Department recommended that Fone America have its interim certificate revoked 30 days after the issuance of this Order.

In order to provide every opportunity for this noncomplying company to come into conformity with Commission Orders, the Commission will issue a Show Cause Order to Fone America. The Commission will require Fone America to demonstrate, within 15 days, why its interim certificate should not be revoked for failure to submit compliance filings in accordance with the Commission's November 19, 1991 and March 25, 1992 AOS Orders.

ORDER

1. The requests for waiver of the sub-carrier identification requirement are granted for one year for the AOS providers listed in Part I of this Order.

At least 30 days prior to the expiration of the one year waiver period, each of the aforementioned providers shall submit a compliance filing notifying the Commission of its plan to implement sub-carrier identification. Any AOS provider not able to meet this requirement must apply for a waiver from the Commission.

2. The compliance filings submitted by the AOS providers listed in Part II of this Order are accepted. These providers will continue to operate under interim authority, pending resolution of the sub-carrier identification issue.
3. OPTICOM's request for a waiver of the 90 day billing time requirement is denied.
4. On or before 15 days from the date of this Order, Fone America shall show cause in writing why its interim AOS certificate should not be revoked for failure to submit compliance filings in accordance with the Commission's November 19, 1991 and March 25, 1992 AOS Orders.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

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